



Reprinted
February 22, 2005

HOUSE BILL No. 1350

DIGEST OF HB 1350 (Updated February 21, 2005 7:10 pm - DI 52)

Citations Affected: IC 32-29.

Synopsis: Escrow accounts. Prohibits a title insurance agent or a title insurance underwriter from making a disbursement from an escrow account unless certain conditions are met. Requires the deposit of funds received for an escrow transaction in an escrow account unless the parties agree in writing to another arrangement.

Effective: July 1, 2005.

Burton

January 13, 2005, read first time and referred to Committee on Judiciary.
January 25, 2005, reassigned to Committee on Financial Institutions.
February 3, 2005, amended, reported — Do Pass.
February 21, 2005, read second time, amended, ordered engrossed.

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HB 1350—LS 7282/DI 14+



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February 22, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1350

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-29-1-12 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 12. (a) As used in this section, "agent" means a title**
4 **insurance agent or a title insurance underwriter.**

5 **(b) As used in this section, "banking day" means a day on which**
6 **the federal reserve bank is open to the public for carrying on**
7 **substantially all of the functions of the federal reserve bank.**

8 **(c) As used in this section, "check" means a negotiable**
9 **instrument that is drawn on or payable through an insured:**

10 **(1) bank;**

11 **(2) savings and loan association;**

12 **(3) credit union; or**

13 **(4) savings bank;**

14 **and contains an unconditional order to pay on demand a specified**
15 **sum of money.**

16 **(d) As used in this section, "escrow account" means a checking**
17 **account established by an agent with an insured:**

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- (1) bank;
- (2) savings and loan association;
- (3) credit union; or
- (4) savings bank;

that is used exclusively for the deposit and disbursement of funds for an escrow transaction.

(e) As used in this section, "escrow transaction" means a transaction in which a person deposits with an agent funds that are to be held until:

- (1) a specified event occurs; or
- (2) the performance of a prescribed condition.

(f) Funds received for an escrow transaction must be deposited in an escrow account unless the parties to the escrow transaction agree in writing to another arrangement.

(g) An agent may not make a disbursement from an escrow account unless the following conditions are met:

(1) The cash, funds, money orders, checks, or negotiable instruments necessary for the disbursement have been:

- (A) transferred electronically to or deposited into the escrow account of the agent and are available for withdrawal and disbursement; or
- (B) physically received by the agent before disbursement and are intended for deposit not later than the next banking day after the date of disbursement.

(2) The transfers or deposits described in subdivision (1) may be any of the following:

- (A) Cash or electronically transferred funds.
- (B) Certified checks, cashier's checks, checks, or money orders that are drawn on an existing account at a federally insured bank, savings and loan association, credit union, or savings bank.
- (C) A check issued by the United States or the state of Indiana, or by an agency, instrumentality, or political subdivision of the United States or the state of Indiana.
- (D) A check drawn on the escrow account of a title insurance company or title insurance agency, if the agent has reasonable and prudent cause to believe that sufficient funds are available for withdrawal in the account on which the check is drawn at the time of disbursement.
- (E) A personal check in a amount not to exceed one thousand dollars (\$1,000).

(h) An agent is not prohibited from advancing an amount not to

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1 exceed one thousand dollars (\$1,000) from an escrow account on
2 behalf of a party to an escrow transaction for the purpose of
3 paying incidental fees, including conveyance and recording fees.
4 Incidental fees may be paid in order to:
5 (1) effect and close the sale of;
6 (2) purchase;
7 (3) exchange;
8 (4) transfer;
9 (5) encumber; or
10 (6) lease;
11 residential real property that is the subject of the escrow
12 transaction.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1350, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 42, delete "official".

and when so amended that said bill do pass.

(Reference is to HB 1350 as introduced.)

BURTON, Chair

Committee Vote: yeas 8, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1350 be amended to read as follows:

Page 1, line 3, delete "the" and insert "**a title insurance agent or a title insurance underwriter.**".

Page 1, delete line 4.

Page 1, line 5, delete "transaction.".

Page 1, line 10, delete "a federally" and insert "**or payable through an**".

Page 2, line 1, delete "with a federally" and insert "**established by an agent with an**".

Page 2, line 6, after "deposit" insert "**and disbursement**".

Page 2, line 6, delete "transferred".

Page 2, delete line 7.

Page 2, line 8, delete "instruments that are received by the agent to effect" and insert "**for**".

Page 2, line 11, delete ", for the purpose of effecting and".

Page 2 delete lines 12 through 15.

Page 2, line 16, delete "thing of value to an agent to be held by the agent" and insert "**deposits with an agent funds that are to be held**".

Page 2, line 18, delete ";" and insert ".".

Page 2, delete lines 19 through 22.

Page 2, line 23, delete "As used in this section, "negotiable instrument" has the" and insert "**Funds received for an escrow transaction must be deposited in an escrow account unless the parties to the escrow transaction agree in writing to another arrangement.**".

Page 2, delete lines 24 through 27.

Page 2, line 28, delete "(h)" and insert "**(g)**".

Page 2, line 28, delete "knowingly".

Page 2, line 29, delete "on behalf of another person".

Page 3, line 14, delete "(i)" and insert "**(h)**".

(Reference is to HB 1350 as printed February 4, 2005.)

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